



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Jarvis Co.

Honorable Frank Wright
County Auditor
Bonham, Texas

Dear Sir:

Opinion No. O-1796

Re: If one-half of the state ad valorem taxes are paid on November 4 and the last half paid on November 27, which makes full payment of the taxes for that month, should the 2% discount be allowed on the full ad valorem tax?

We are in receipt of your letter of December 30, 1939, in which you request an opinion of this department on the question set out in your letter as follows:

"If one half of the state ad valorem taxes are paid on November 4th and the last half paid on November 27th (same month) which makes full payment of taxes in November, should the two per cent discount be allowed on the full ad valorem tax?"

Senate Bill 402, chapter 16, Acts of the 46th Legislature, Regular Session, provides in part as follows:

"Section 1. All taxpayers shall be allowed discounts for the payment of taxes due to the State and all governmental and political subdivisions and taxing districts of the State, said discounts to be allowed under the following conditions: (a) three

(3%) per cent discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State, if such taxes are paid ninety (90) days before the date when they would otherwise become delinquent; (b) two (2%) per cent discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State if such taxes are paid sixty (60) days before the date when they would otherwise become delinquent; (c) one (1%) per cent discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State, if such taxes are paid thirty (30) days before the date when they would otherwise become delinquent. . .

". . .

"Section 3. Section 2 of Chapter 10 of the Acts of the Fourth Called Session of the Forty-third Legislature, the same being Article 7336 of Vernon's Revised Civil Statutes of 1936, is hereby amended so as hereafter to read as follows:

"Article 7336. (a) If any person shall pay, on or before November thirtieth of the year for which their assessment is made, one-half ($\frac{1}{2}$) of the taxes imposed by law on him or his property, then he shall have until and including the thirtieth day of the succeeding June, within which to pay the other one-half ($\frac{1}{2}$) of his said taxes without penalty or interest thereon.

". . .

"All poll taxes and all ad valorem taxes, unless one-half ($\frac{1}{2}$) thereof have been paid on or before November 30th as hereinabove provided, shall become delinquent if not paid prior to February first of the year next succeeding the

year for which the return of the assessment rolls of the county are made to the Comptroller of Public Accounts. If one-half ($\frac{1}{2}$) of said ad valorem taxes have been paid on or before the thirtieth day of November as herein provided, the remaining one-half ($\frac{1}{2}$) of such taxes shall be delinquent if not paid before the first day of July of the year next succeeding the year for which the return of the assessment rolls of the county are made to the Comptroller of Public Accounts.

"(c) If one-half ($\frac{1}{2}$) of such ad valorem taxes have been paid on or before November thirtieth of the year in which the same are assessed, the discounts herein provided for shall be effective and shall apply to the last half of the ad valorem taxes if paid ninety (90), sixty (60), and thirty (30) days, respectively, prior to the first day of July, when the same become delinquent as herein provided; but such discount shall not apply to the first half of such taxes if the same have been paid on or before November thirtieth of the year in which such assessment is made."

The procedure for tax payment in the above quoted article is the so-called "split payment plan". The procedure for the payment of taxes under such plan and the allowance of discounts have been fully set out by the Legislature and will be discussed later in this opinion.

In your case we have a situation where the taxpayer paid one-half of the state ad valorem tax on November 4 and the other half on November 27. This department ruled in Opinion No. 0-1262 that a tax collector of a county is unauthorized to accept the payment of part of a single tax assessment. The exception to the holding in said opinion is, however, a case where payment is made under the split payment plan, as provided for in Article 7336 of the Revised Civil Statutes. This department must of necessity assume, then, that

Honorable Frank Wright, page 4

when payment was accepted on November 4, of one-half of the state ad valorem tax, said payment was made under the split payment plan. We have in your case a situation where the taxpayer has elected to adopt the split payment plan in the payment of his taxes and pursuant to such adoption has paid one-half of his state ad valorem taxes on November 4, 1939. The second half of said payment was made on November 27, although the same was not due until June 30, 1940.

Your attention is called to Section C of Article 7336, supra, which provides that in a case where one-half of the state ad valorem tax has been paid before November 30, as was the situation in your case, then discount shall be allowed on the payment of the second half of the state ad valorem tax if made either 90, 60 or 30 days prior to the first day of July. Said section further specifically provides that such discount shall not apply to the first payment made before November 30 of the year in which the assessment is made.

You are therefore advised that as the second payment was made on November 27, which date was more than 90 days prior to July 1, 1940, three (3%) per cent discount should be allowed the taxpayer on said state ad valorem tax payment. You are further advised that the taxpayer is to be allowed no discount on the payment made by him on November 4, 1939.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Billy Goldberg
Billy Goldberg
Assistant

APPROVED JAN 12, 1940

RC:jm

[Signature]
FIRST ASSISTANT
ATTORNEY GENERAL

